S/S Clearwood Avenue, 370' E of the c/l of Oakleigh Road (1811 - 1813 Clearwood Avenue)

9th Election District 4th Councilmanic District Chester A. Bowen Petitioner

\* DEPUTY ZONING COMMISSIONER \* OF BALTIMORF COUNTY

\* \* 4 \* \* \* \* \* \* \*

\* Case No. 89-279-A

## FINDINGS OF FACT ''D CONCLUSIONS OF LAW

The Petitioner herein requists a variance to permit a lot width of 50 feet in lieu of the required 55 feet, and a side yard setback of 3 fest in lieu of the required 10 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioner appeared, testified, and was represented by Dorothy T Jackson, Esquire. Also appearing on behalf of the Petition was Petitioner's son, Martin J. Bowen. There were no Protestants.

Testimony indicated that the subject property, known as 1811 and 1813 Clearwood Avenue, consists of two lots totalling .890 acres zoned n.R. 5.5. Mr. Bowen testified he purchased Lots 77 and 78 approximately  $\searrow$ 30 years ago and that at that time, they were two separately described parcels of land. Petitioner has resided in the existing house on Lot 78 for the past 30 years. Mr. Bowen is desirous of transferring Lot 77 to his son to build a house which will comply with all front, rear and side yard setbacks. The existing dwelling on Lot 78 however will have a 3-foot side yard setback on the side adjoining Lot 77. Therefore, the requested variance is required. Testimony presented indicated that the granting of the variance requested would not result in any detriment to the health, safety and general welfare of the community. Further, Petitioner contends a denial of the variance would result in practical difficulty and unreasonable hardship as the Lots were purchased with the intent of having one of the family members building a home and residing on the adjoining property. Petitioner testified he can comply with the requirements of the Office of Planning as set forth in the comments submitted by the Deputy Director dated January 20, 1989. Further, Petitioner agreed that no further front, rear or side yard setbacks would be requested for Lots 77 and 78.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

#178

ZONING DESCRIPTION OF LOT 77

Beginning on the south side of Clearwood Avenue 300 feet east of the east side of Cakleigh Road and thence running on the south side of Clearwood Avenue 50 feet by a depth of 385 feet. Peing Lot 77 in the Subdivision of Hillendale Farms Plat Book Mo. 8 folios 92, 93. Also known as 1811 Clearwood Avenue in the 9th Election District.

ZONING DESCRIPTION OF LOT 78

Beginning on the south side of Clearwood Avenue 350 feet east of the east side of Oakleigh Road and thence running on the south side of Clearwood Avenue 50 feet by a depth of 385 feet. Feing Lot 78 in the Subdivision of Hillendale Farms Plat Book No. 8 folios 92, 93. Also Known as 1813 Clearwood Avenue in the 9th Election District.

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER S/S Clearwood Ave., 370° E C/L Oakleigh Rd. (1811-1813 OF BALTIMORE COUNTY Clearwood Ave.), 9th Election Dist.; 4th Councilmanic Dist. : Case No. 89-279-A CHESTER A. BOWEN, Petitioner

> :::::: ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

> Lyllis Cole Friedman Phyllis Cole Friedman People's Counsel for Baltimore County Max Zunena Peter Max Zimmerman Deputy People's Counsel Room 304, County Office Building

I HEREBY CERTIFY that on this 24th day of January, 1989, a copy of the foregoing Entry of Appearance was mailed to Dorothy T. Jackson, Esquire, 8309 Harford Rd., Baltimore, MD 21234, Attorney for Petitioner.

> feter Max Zuneman Peter Max Zimmerman

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this day of February, 1989 that the Petition for Zoning Variance to permit a lot width of 50 feet in lieu of the required 55 feet, and a side yard setback of 3 feet in lieu of the required 10 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

> 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) Within forty-five (45) days of the date of this Order, Petitioner shall have prepared appropriate documentation for filing in the land records of Ealtimore County verification that present and future property owners of Lots 77 and 78 will not request any additional variances other than those granted herein.

> (Im MNasknowie ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

District 97h Varionco Petitioner: Chostar A. 130Won Location of property: 5/5 Clearwood Are, 370' E/ Catleigh Rd 1811 + 1813 cloor wood Hm Location of Signa Focing Clearwood Ato, oppnix, 15 Fr. readway, an proporty of filitioner Posted by Malerty Number of Signs: \_\_\_\_\_\_

6 8

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 5, 1989 THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_\_ successive weeks, the first publication appearing on Jan 5. 1987.

TOWSON TIMES.

THE JEFFERSONIAN

PO 07854 neg M 25143 case 89-279-A price \$95.29

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a 1802.3.8 to permit a 16t widen of 50 and

Variance from Section \_\_\_\_\_\_\_ a side yard setback of 3' in lieu of the required 55' and 10', respectively

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) (1) The undersigned bought two lots with the intention of erecting two houses. (2) The extra lot is a financial burde tax-wise. (3) The total square footage in each lot is 19,250 and requires extensive care of mowing, triming, etc. (4) At the time that the home was erected at 1813 Clearwood Ave. the house was built with the intention of being properly located on said lot. (5) The new construction on 1811 Clearwood Ave. will not be next to the construction on 1813 Clearwood Ave. so that there will not be crowding as to side lot lines. (6) Lot 77 (1811 Clearwood Avenue) and Lot 78 (1813 Clearwood Avenue) each contain .445 acres.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Legal Owner(s): Contract Purchaser Chester A. Eowen (Type or Print Name) (Type or Print Name) Chester a Bowen (Type or Print Name) City and State Attorney for Petitioner: 1813 Clearwood Avence Dorothy T. Jackson .... Dorothy J. Jackson Betto ml 8309 Harford Road Name, address and phone number of legal owner, contract purchaser or representative to be contacted up Attorney Baltimore, Md. 21234 Attorney's Telephone No.: 665-7636

Zoning Commissioner of Baltimore County

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines

Mr. Chester A. Bowen 1813 Clearwood Avenue

Baltimore, Maryland

Date: 1.6.89

Petition for Zoning Variance CASE NUMBER: 89-279-A S/S Clearwood Avenue, 370' E c/l Oakleigh Road 1811 - 1813 Clearwood Avenue 9th Election District - 4th Councilmanic Petitioner(s): Chester A. Bowen HEARING SCHEDULED: WEDNESDAY, JANAURY 25, 1989 at 9:00 a.m.

Please be advised that \*/10.29 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office

BALTIMORE COUNTY, MARYLAND PFFICE OF FINANCE REVENUE DIVISION MISCELLANEOUS CASH RECEIPT	No. C59671	i post set(s), then reach set not
DATE 257ANS9 ACCOUNT_	E-CHC15-CCU	-
AMOUNT	110.29	·•
RECEIVED CUCCTES A TO	W.	_ ines
FOR: PRISTING E ADJECTION	AL (24-273 A)	oner of

Towson, Maryland 21204

Hearing Date: Wednesday Jan. 25, 1989 at 9:00 a.m Variance: to permit a lot width of 3 teet in lieu of the required 55 feet and 10 feet, respectively. In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Com-missioner will, however, entertain any request for a stay of the is-

J. ROBERT HAINES Zoning Commissioner of Baltimore County

/ NOTICE OF HEARING

The Zoning Commissioner of Baltimure County, by authority of the Zoning Act and Regulations of Baltimure County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesspeake Avenue in Transon Mandard 21204

enue in Towson, Maryland 212

9th Election District

Petition for Zoning Variance Case number: 89-279-A S/S Cleanwood Avenue, 370' E cf Oakleigh Road 1811 — 1813 Cleanwood Av-

and received in this office by the date of the hearing set above or presented at the hearing.

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines

## NOTICE OF HEARING



Dennis F. Rasmussen

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance CASE NUMBER: 89-279-A 5/S Clear wood Avenue, 370° E c/l Oakleigh Road 1811 - 1813 Clearwood Avenue 9th Election District - 4th Councilmanic Petitioner(s): Chester A. Bowen HEARING SCHEDULED: WEDNESDAY, JANAURY 25, 1989 at 9:00

VARIANCE to permit a lot width of 50 feet and a side yard setback of 3 feet in lieu of the required 55 feet and 13 feet, respectively.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines ROBERT HAINES

Zoning Commissioner of Baltimore County cc: Mr. Chester A. Bowen Dorothy J. Jackson, Esq.

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500

December 29, 1988

J. Robert Haines, Zoning Commissioner Office of Planning & Zoning Baltimore County Office Building Towson, Maryland 21204

Re: Property Owner: Chester A. Bowen

Location: S/S Clearwood Avenue, 370' E c/l of Oakleigh Road County Executive

Item No.: 178 Zoning Agenda: Meeting of 11/9/88

Gentlemen:

Paul H. Reincke

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ( ) 2. A second means of vehicle access is required for the site.
- ( ) 3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department.
- ( ) 4. The site shall be made to comply with all applicable parts of the
- ( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition

Fire Prevention Code prior to occupancy or beginning of operation.

( ) 6. Site plans are approved, as drawn.

prior to occupancy.

( ) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: AND SOLUTION INCTED & APPROVED:
Planning Group
Fin
Special Inspection Division

CLEARWOOD AVE. 1809 \#78) BRIARCLIFF 11 × 11 3 × 16 9 × 10 × 080 Plat for 2 zoning variances.
Owner - Chester A. Bowen
District - 9. Zoned D.R. 5.5
Subdivision-Hillendale Farms
Platbook 8 Folios 92,93
Lot 77=19,250 sq.ft. 445 a.
Lot 78=19,250 sq.ft. 445 a.
NW corner of Lot 77 lies on
scuthside of Clearwood Ave.
300 ft. east of Oakleigh Rd.
NW corner of Lot 78 lies on
southside of Clearwood Ave.
350 ft. east of Oakleigh Rd.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 17, 1989

COUNTY OFFICE BLDG.

Burcau of

Engineering

Bureau of

Industrial

Traffic Engineering

Fire Prevention

Health Department

Project Planning

**Building Department** 

Board of Education

Zoning Administration

State Roads Commissio

Dorothy T. Jackson, Esquire 8309 Harford Road Baltimore, Maryland 21234

RE: Item No. 178, Case No. 89-279-A Petitioner: Chester A. Bowen Petition for Zoning Variance

Dear Ms. Jackson: Department of

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Janu E. Dyelde JAMES E. DYER Chairman Zoning Plans Advisory Committee

JED:dt Enclosures

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this 10th day of November , 1988 .

Petitioner Chester A. Bowen Petitioner's Attorney Dorothy T. Jackson Received by: James E. Dyer
Chairman, Zoning Plans Advisory Committee

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204 (301) 887-3554

November 25, 1988



Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

ZAC - Meeting of November 9, 1988 Item Nos. 172, 175, 176, 177, 178, 179, 180, 181, and 182.

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 172, 175, 176, 177, 178, 179, 180, 181, and 182.

Traffic Engineer Associate II

MSF/lvw

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494:3353 887-3353

J. Robert Haines
Zoning Commissioner

February 3, 1989



Dorothy T. Jackson, Esquire 8309 Harford Road Baltimore, Maryland 21234

RE: PETITION FOR ZONING VARIANCE S/S Clearwood Avenue, 370' E of the c/l of Oakleigh Road (1811 - 1813 Clearwood Avenue) 9th Election District - 4th Councilmanic District Chester A. Bowen - Petitioner Case No. 89-279-A

Dear Ms. Jackson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact M.. Charlotte Radcliffe at 494-3391.

Very truly yours,

an H. Nastanow. cy ANN M. NASTAROWICZ Deputy Zoning Commissioner

for Baltimore County

AMN:bjs

cc: People's Counsel

File

DOROTHY T. JACKSON ATTORNEY AT LAW

PHONE 665-7636

6309 HARFORD ROAD BALTIMORE, MD. 21234

Baltimore County Office of Flanning & Zoning County Office Euilding 111 West Chesapeake Avenue Towson, Maryland 212C4

Attn: Ann M. Nastarowicz Deputy Zoning Commissioner

KAR 17 1989 ZONING OFFICE

March 13, 1989

E (122 - 1 - 1 - 1 - 1 - 1 - 1

Re: 89-279-A

Dear Ms. Nastarowicz:

In accordance with our recent 'phone conversation, I am sending you the language which I intend to put in the Deed from Chester A. Bowen to his son, Martin Joseph Bowen, as follows:

"The Grantor, Chester A. Bowen, and the Grantees, Martin Joseph Bowen and Susan Lee Bowen, his wife, do hereby covenant and agree that neither they nor any of them, nor any of their heirs, personal representatives and assigns will request any zoning variances for either Lot 77, the subject property, or Lot 78, the Grantor's residence property, on the Plat of Hillendale Farms."

If this language is proper, it will be placed after the 'Being' clause following the description.

Awaiting your reply, I am,

Very truly yours, Howily I sochron Dorothy T. Jackson

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

Chestro a. Bowen Martin J. Bowen

1813 Clearwood TA. 1813 Cleanwood RD

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines TO. Zoning Commissioner Pat Keller, Deputy Director

January 20, 19d9

FROM office of Planning and Zoning Zoning Petition Nos. 89-277-A (Ruth); 89-278-A (Curran); SUBJECT\_ and 89-279-A (Bowen)

The applicant in each of these cases is requesting consideration to establish lot sizes of 50 feet in width rather than 55 feet and variances to respective side yards where required. In reference to these requests, staff provides the following information.

In instances such as these, staff's primary concerns are:

1. What is the impact on adjoining property?, and;

2. Are adequate front, side, and year yard setbacks being provided on the site?, and; 3. Will the reduced lot sizes result in requests for additional

variances when subsequent lot owners try to build unsuitable homes on the lots or expand homes into required areas? Based upon the information provided and analysis conducted, staff recommends that if any of the requests are granted, the following conditions be attached.

 All building setback lines (front, side, rear) shall be shown on the site plan and recorded by the applicant on the deed of record. Furthermore, a statement shall be attached to the site plan which clearly states that all development shall conform to the setbacks as shown and additional variances shall not be granted for setbacks

on the subject property. Any applications for building permits shall include a copy of the site plan and the Commissioner's "Findings of Fact and Conclusions of Law," provided by the applicant.

PK/sf



ZONING OFFICE